

**RESTRICTIONS ON POLITICAL ACTIVITIES  
OF COUNTY OFFICERS AND EMPLOYEES  
(Updated September 2018)**

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County officers and employees may express their political opinions and engage in political activities, but must live with some restrictions imposed by state and, sometimes, federal law. In general, this means that County officers and employees must ensure that when they engage in political activities, they do so only in their individual capacities, **while not on duty**, and avoid even the appearance that they are speaking or acting for the County of Tulare when they engage in such activities.

This brief review is intended as a guide to assist County officers and employees in determining what they can and cannot do when engaging in political activities.

**I. CALIFORNIA LAW<sup>i</sup>**

**A. What Is Permitted**

Under California law, County officers and employees, **while not on duty**, and if their jobs do not involve federally funded activities, may do any of the following:

1. Register and vote.
2. Express their personal opinions on political subjects, issues, and candidates.
3. Participate in conversations about campaign issues and/or candidates during lunch breaks, in areas away from work areas. (Remember the need to be sensitive, even in lunch/break rooms, to those who may be offended by a particular viewpoint.)
4. Become candidates for nomination or election in any partisan or nonpartisan campaign – national, state, or local.
5. Engage in partisan or nonpartisan political activities as an individual or as a member of a group.
6. Contribute to political campaigns **if the contribution is not made to or through another County officer or employee**. Contributions to or through another County officer or employees may be made only when the solicitation is allowed by law (see below).
7. Join political organizations and vote on any question presented.
8. Organize, join or manage and be active in political clubs, or serve as officers, delegates, or alternates, or as members of any committee.
9. Participate actively in political conventions.
10. Attend political meetings, rallies, etc., and organize, prepare and conduct such gatherings or make speeches.

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11. Initiate, sign or circulate partisan or nonpartisan nominating petitions, distribute campaign literature, badges, etc. (provided it is not done in the workplace or during other employees' working hours).
12. Wear campaign badges or buttons (**when not on duty**).
13. Display bumper stickers, pictures, or posters on their private cars, even when parked in a County lot.
14. Post pictures or posters in the windows of their homes, or display lawn signs.
15. Speak publicly, or write letters or articles for or against any political candidates, and endorse or oppose such candidate in a political advertisement.

In an endorsement, officers and employees may use their titles in addition to their names, in order to identify themselves for informational purposes only ("Robert Smith, Sheriff of Tulare County"), but may not use their titles alone ("the Tulare County Sheriff"). When appropriate (such as in an op-ed piece in the newspaper), the speaker should add an appropriate disclaimer, such as "the opinions expressed are the personal views of the author and do not reflect the official position of Tulare County or the \_\_\_\_\_ Department."

16. Manage the campaign of a political candidate.
17. Assist in voter registration drives.
18. Campaign for or against candidates in partisan elections; or for or against referendum questions, constitutional amendments, etc.

**B. What Is Prohibited While On Duty**

Under California law, County officers and employees, **while on duty**, may not do any of the following:

1. Attempt to use their County positions or official authority to influence the political actions of other County officers or employees or those seeking County employment.<sup>ii</sup> For example: County officers and employees cannot wear a campaign button, shirt or logo **at work**, or post or distribute a political message using County e-mail or the County's access to the Internet.
2. Knowingly solicit political funds or contributions from other officers or employees of the County or from persons on the employment list of the County, **except**:
  - (a) An officer or employee, **while off duty**, may solicit or receive political funds or contributions to promote the passage or defeat of a ballot measure that would affect the rate of pay, hours of work, retirement, civil service, or other working



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conditions of the officer or employee (provided it is not done in the workplace or during other employees' working hours).<sup>iii</sup>

- (b) An officer or employee, **while off duty**, and **using non-County resources only**, may communicate through Non-County E-mail, U.S. mail (not inter-office mail) or by other means, to solicit political contributions from officers or employees of that agency, if the solicitation is part of a solicitation made to a significant segment of the public which may include officers or employees of the County.<sup>iv</sup> For example, a County employee who is running for judge may properly purchase from the State Bar a mailing list of all attorneys in Tulare County, and use the list to send a solicitation through the U.S. mail, despite the fact that many attorneys employed by the County use their office address for State Bar purposes, and thus would receive the solicitation at work.
- (c) An officer or employee may solicit political funds or contributions from a bona fide public employees' organization, provided that the funds when collected by the employees' organization are not earmarked for a clearly identifiable local officer-holder or candidate.<sup>v</sup>

- 3. Participate in conversations about campaign issues and/or candidates during any paid County time, including paid rest periods (breaks).<sup>vi</sup>

**C. What Is Prohibited Even Off Duty**

Under California law, County officers, and employees, **whether on or off duty**, may not do any of the following:

- 1. Participate in political activities of any kind while in uniform. *For example:* neither the Sheriff nor deputy sheriffs may participate in political activities of any kind while in uniform.<sup>vii</sup>
- 2. Participate in political activities of any kind on the premises of a local agency. This does not include use of a public park for which sponsors of an event have obtained the appropriate permits or at public facilities (e.g., convention center, library, or other meeting hall) that are routinely available for private functions. <sup>viii</sup> Political conversations during lunch breaks are permitted as indicated in section A(3) above.
- 3. While in office or seeking election or appointment to an office, directly or indirectly offer to increase compensation or salary for an employee in exchange for, or a promise of, a contribution or loan to any committee controlled by the person who holds or who is seeking an office.<sup>ix</sup>
- 4. Use or permit others to use County or other publically-owned land, buildings, facilities, funds, equipment, supplies, telephones, computers, vehicles, or other property or assets for a campaign activity.<sup>x</sup> Note that intentional or negligent violation of this restriction can result in a civil penalty of up to \$1000 per day for each day a violation occurs and that either the California Attorney General or the County District Attorney can bring an action to enforce the restriction and recover the penalties.

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**II. FEDERAL LAW**

In addition to being covered by state law, County employees whose primary job is in connection with **federally financed activities** are covered by the Hatch Act.<sup>xi</sup> This statute restricts the activities of County **employees** (the law does not apply to elected officials) in regard to **partisan** political activity (i.e., activities involving a political party, such as the Democratic or Republican parties).

Due to the wide variety of County activities involving federal funding (from welfare to roads to law enforcement), employees who are considering **partisan** political activities should inquire carefully with their departments regarding the source of funding for their positions before engaging in these activities.

**A. What Is Permitted**

County employees subject to the Hatch Act, **while not on duty**, may:

1. Vote as they choose and express their opinions on political subjects and candidates.
2. Be candidates for **nonpartisan** offices. (Caveat: federal officials should be consulted if political parties become involved in campaigns for officially nonpartisan offices.)

**D. What Is Prohibited**

County employees covered by the Hatch Act may not:

1. Use their official authority or influence for the purpose of interfering with or affecting the result of an election or a nomination for office.

This means that employees covered by the Hatch Act may **not** use their job titles in **partisan** political endorsements.

2. Directly or indirectly coerce, attempt to coerce, command, or advise a state or local officer or employee to pay, lend, or contribute anything of value to a party, committee, organization, agency, or person for political purposes; or
3. Be candidates for **partisan** elective offices, unless they take a leave of absence to run.

"Elective public office" does not include a political party office. Thus, a Hatch Act employee may be a candidate for a position of officer of a political party, or any similar position, without taking a leave of absence.<sup>xii</sup>

**III. COUNTY ORDINANCE CODE**

Tulare County Ordinance Code section 02-09-1000 et seq., *Posting Signs on County Property*, prohibits the posting of signs, posters, and other paraphernalia, including political signs, on County property, unless authorized by the County Administrative Officer. County property is defined in Section 02-



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09-1005 as any real or personal property owned, leased, or operated by the County, including County property leased or licensed to third parties.

**IV. CAUTION**

The information in this brief memorandum is necessarily general. Officers and employees who wish to engage in private political activities should inquire about specific situations as needed.

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<sup>i</sup> Gov. Code, § 3201 et seq.

<sup>ii</sup> Gov. Code, § 3204.

<sup>iii</sup> Gov. Code, § 3209.

<sup>iv</sup> Gov. Code, § 3205, subd. (c).

<sup>v</sup> 59 Ops.Cal.Atty.Gen. 623 (1976).

<sup>vi</sup> Government Code §3207.

<sup>vii</sup> Gov. Code, § 3206.

<sup>viii</sup> Government Code §3207.

<sup>ix</sup> Gov. Code, § 3505.5.

<sup>x</sup> Gov. Code, § 8314.

<sup>xi</sup> 5 U.S.C. § 1501 et seq.

<sup>xii</sup> 5 C.F.R. § 151.122.



# Election Season Do's and Don'ts

## For County<sup>1</sup> Officials and Employees

### **THE DON'Ts:** County officials and employees may NOT:

- Solicit, directly or indirectly, a political contribution from another county official or employee.
- Distribute campaign literature through the county's internal mail or email system.
- Place campaign literature on employee bulletin boards, county-related websites, or elsewhere on county property.
- Do any campaign related work during compensated work hours.
- Use county facilities (offices, conference rooms) or equipment (phones, computers, printers, copiers, fax machines, email system, paper) for any political activities.
- Use public funds for any campaign-related purpose.
- Participate in political activities while in uniform.

### **THE DO's:** County officials and employees may:

- Participate in political activities during their personal time.
- Make campaign contributions using personal funds.
- Attend campaign events on their own personal time.

If you have any questions, please contact Barb Grunwald or Jeff Kuhn in the County Counsel's Office.

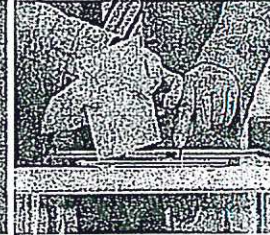
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<sup>1</sup> These rules apply equally to all entities governed by the Board of Supervisors.





## Ballot Measure Activities & Public Resources



As important as ballot measures are to policymaking, public agencies and officials face important restrictions and requirements related to ballot measure activities.

The basic rule is that public resources may not be used for ballot measure *campaign* activities. Public resources may be used, however, for *informational* activities. The key difference between campaign activities and informational activities is that campaign activities support or oppose a ballot measure, while informational activities provide accurate context and facts about a ballot measure to voters.

This document summarizes some of the key applications of these principles. The law, however, is not always clear and the stakes are high. Missteps in this area are punishable as both criminal and civil offenses. Always check with agency counsel for guidance on how these rules apply in any specific situation.

### Public Agency Resources May Be Used To

- ✓ Place a measure on the ballot.
- ✓ Prepare and distribute an objective and fact-based analysis on the effect a ballot measure may have on the agency and those the agency serves.
- ✓ Express the agency's views about the effect of the measure on the agency and its programs, provided the agency is exceedingly careful not to advocate for or against the measure's passage.
- ✓ Adopt a position on the measure, as long as that position is taken at an open meeting where all voices have the opportunity to be heard.
- ✓ Respond to inquiries about the ballot measure in an objective and fact-based manner.
- ✓ Agency communications about ballot measures should not contain inflammatory language or argumentative rhetoric.
- ✓ Public employees and elected officials may, on their own time and with their own resources, engage in the following activities:
  - Work on ballot measure campaigns or attend campaign-related events on personal time (for example, evenings, weekends and lunch hours).
  - Make campaign contributions to ballot measures, using one's own money or campaign funds (while observing campaign reporting rules).
  - Send and receive campaign related emails using one's personal (non-agency) computer and email address.